

Forty-fourth Annual Report

MARYLAND STATE BOARD

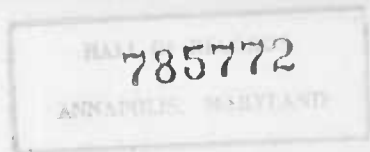
OF

MOTION PICTURE CENSORS



Offices

**State Office Building
301 W. Preston Street
Baltimore 1, Maryland**



Forty-fourth Annual Report

MARYLAND STATE BOARD

OF

MOTION PICTURE CENSORS

1959-1960

C. MORTON GOLDSTEIN

Chairman

NORMAN C. MASON

Vice-Chairman and Treasurer

MARY AVARA

Secretary

ELWOOD L. GEBHART

Accountant

Offices

State Office Building
301 West Preston Street
Baltimore 1, Maryland



J. MILLARD TAWES
Governor of Maryland

HONORABLE J. MILLARD TAWES
GOVERNOR OF MARYLAND
STATE HOUSE
ANNAPOLIS, MARYLAND

DEAR GOVERNOR TAWES:

The Maryland State Board of Motion Picture Censors takes pleasure in submitting to you herewith the forty-fourth Annual Report of its operations, for the fiscal year ending June 30, 1960. We detail herein, the number of films examined, the Board's action taken thereon, other pertinent data, as well as an itemization of receipts and disbursements.

WORK OF THE BOARD

During the Fiscal Year, the Board examined and processed a total of 7,471 subjects, of which 1,025 were original, and 6,446 were duplicates, consisting of 65,447 reels comprising 52,471,984 feet of film. Of these 7,471 subjects, 7,428 were approved without modification and 43 were modified in part, and no film was rejected in its entirety.

FINANCIAL STATEMENT

The year's total receipts were \$69,275.00 as compared with \$63,130.00 the previous year. This revenue was derived from fees required by law for the Board's examination of films. After defraying all expenses, the sum of \$7,344.63 reverted to the State Treasury, from the income collected. The all-time sum reverting to the Treasury amounts to \$598,787.36 since the inception of the Board.

INSPECTIONS

The Board employs one full time inspector and seven part-time inspectors, in addition to a supervisor. The employment of part-time inspectors for specified areas, add to the efficiency of the Inspection and Law Enforcement program, and travel costs are eliminated.

A total of 5,587 films were inspected during the year. These inspections were of theatres throughout the State, periodically made, to check compliance with the State motion picture censorship law, and orders issued by the Board.

CENSORSHIP

The Maryland Law of Motion Picture Censorship is set forth in Article 66A of the Annotated Code of Maryland, which, together with decisions of the Courts, define the authority of this Board to approve and license motion picture films which are moral and proper and to disprove those which are obscene, or such as tend, in the judgment of the Board, to debase or corrupt morals or incite to crimes. In previous Annual Reports to Your Excellency, we have carefully and at length reviewed and commented upon recent important cases decided by The Maryland Court of Appeals, by the Courts of Appeals of our sister states, as well as by the Supreme Court of the United States. These reports in the recent past,

have reviewed such pictures as "Naked Amazon" decided by the Maryland Court of Appeals in 1957; the cases of Roth and Albers vs. United States, decided by the Supreme Court of the United States in June 1957; "Garden of Eden" decided by the New York Court of Appeals; and "Lady Chatterley's Lover" decided by the Supreme Court of the United States in July 1959.

These decisions have delineated our authority, to the extent that obscenity is not within the area of constitutionally protected speech and press, in spite of the unconditional phrasing of the first Amendment of the Federal Constitution, since pure obscenity is utterly without redeeming social importance. It is therefore clear that the Supreme Court will approve a statute prohibiting obscenity in motion pictures, if limited to that material which deals with sex in a manner appealing to prurient interests. The test adopted and now the law of the land, is that "motion pictures will be obscene if, to the average person applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interests". True obscenity therefore, can be reached by pre-censorship, to be exercised, however, with a minimum of restraint.

Several learned opinions by Ferdinand C. Sybert, Esquire, Attorney General of Maryland, were rendered to this Board during the past year. One of them dealt with the matter of whether films, shown without charge to patrons in public places such as restaurants and taverns, must be submitted to the Board for licensing. The ruling stated that the non-commercial exhibitions of films excluded from Article 66A, are limited to those exhibitions which are "for purely educational, charitable, fraternal, or religious purposes" exhibited by "any religious association, fraternal society, library, museum, public school, private school or institution of learning", and therefore films shown in the public places referred to, must be licensed.

A few motion pictures continue to present a plot of low forms of sex expression. This Board is ever mindful of its duty to administer the law in an objective manner, within the narrow confines of its present authority. Each motion picture must be carefully reviewed as to content and the manner and intent of its presentation. Mr. Justice Harlan, of the Supreme Court of the United States, has stated that he cannot see "short of holding that all state 'censorship' laws are constitutionally impermissible, a course which the Court is carefully abstaining, how the Court can hope ultimately to spare itself the necessity for individualized adjudication." A censorship statute can hardly be contrived that would in effect be self-executing, yet individual impressions as the yardstick of action must be left out, since the results would be regulation in accordance with beliefs of the individual censor, rather than regulation by law.

Past cases have been a series of defeats for pre-censorship of motion pictures. The law stands shorn of much of its power, while we anticipate future Court struggles.

The constitutionality of pre-censorship is again being tested, this time in a case presented in the United States Court of Appeals for the Seventh District (Chicago). The film owner sought, and was denied an exhibition permit for the picture "Don Juan", without a censor's screening, contending that all film licensing based upon prior screening by a Censor Board, is unconstitutional. This case is considered by the trade and legal profession, as an epochal shoot-the-works effort to dispense with prior restraint. In prior cases, the Courts have been asked to rule on the merits of a given picture in determining the validity of various obscenity laws. This time, however, the picture has no direct bearing on the issue, but the whole structure of picture pre-censorship in this country may well depend upon the final outcome. The case is now pending in the United States Supreme Court,

and is the first motion picture appeal to reach that Court since the "Lady Chatterley's Lover" decision. The basic issue of the right of State or local governments to review pictures by any standards will be put to the test. The Court may not be able to evade the pre-censorship issue directly, as it has in the past, but it is our view that limited prior restraint will not fail. The Petitioner will argue that if a picture be obscene, the authorities can resort to anti-obscenity criminal statutes to stop and to punish its exhibition. We do not agree that censorship before exhibition interjects the caprice of the censoring boards between the film and the public's right to judge it on its merits. We await the ruling of the Supreme Court in this important case.

Horror films which are sheer exploitation of sadism and brutality, are most disturbing, the only point being to titillate and excite, tending to glamorize juvenile delinquency and counteract the moral values of education. Yet, no valid law has yet been devised to combat the effect of horror films on youth.

The present unsettled state of the law has had a frustrating effect on States and Cities attempting to fulfill their obligations to the community by insuring valid motion picture standards. J. Edgar Hoover, Director of the Federal Bureau of Investigation, commenting generally on the rash of juvenile delinquency, says that "The morals of America are beseeched today by an unprincipled force which will spare no home or community in its quest for illicit profits---these forms of obscenity indeed threaten the morality of our nation and its richest treasure - our young people. They are literally bombarded with vulgar motion picture advertisements in some newspapers; certain movies have too often made good on the provocative promises of the advertisements; and profanity and rapacity are the main ingredients of more and more screen offerings while American youths are remarkably wise in recognizing pseudo-piety in adults and the sham of a society which condones declining morality.

Certain questionable films produced in this country and abroad, continue to seek admittance to public screening, under the guise of "rights" by virtue of constitutional guarantees of freedom of press and speech. Such pictures give us pause, and the Board is continually on the alert for the legally objectionable.

Our most recent concern is with a motion picture titled "The Lovers", in which this Board has ordered extensive cuts as a prerequisite to licensing. In the meantime, two cases involving the picture, have been tried in Ohio, where there is no pre-censorship of motion pictures. In Cleveland, the defendant theater manager was indicted on two counts of (1) unlawfully and knowingly having in his possession and under his control a certain obscene, lewd and lascivious motion picture film and (2) unlawfully and knowingly exhibiting said motion picture film. The case was tried before a Court of three judges who, finding the defendant guilty, said:

"In the motion picture, "The Lovers" the dominant theme of sex is brought into sharp focus early in the film. After the stage has been set and the characters have assumed their relationships to each other, there is evident a calculated, concentrated and determined effort to portray the sexual theme basely and wantonly. In a tantalizing and increasing tempo, the sexual appetite is whetted and lascivious thoughts and lustful desires are intensely stimulated. The apex is reached when the wife of the publisher and the itinerant archaeologist engage in protracted love play, giving full vent to their emotions, and indulge themselves in sexual activity. Very little, if anything is left to the imagination. —In evaluating this motion picture, the Court has been ever mindful of the film taken as a whole and it's appeal to the average person and has applied contemporary community standards. It is the unanimous finding of the Court that the motion picture film in issue is obscene, lewd and lascivious within the definition, description and test set forth in *Roth vs. United States* (June 24, 1957).

As to the same picture in Dayton, the manager of the theater was indicted, tried before a jury and found guilty of showing an obscene film. The verdict of the jury was affirmed by the Appeals Court on July 12, 1960. Similar trouble has beset the film in Oregon, where the theater manager was fined for failure to comply with a police censorship committee order to make deletions.

The Cleveland Press, commenting editorially on the "Lovers" cases, remarks that in States without pre-censorship, an exhibitor must decide on his own and in advance, the question of obscenity on which informed opinion is sharply divided, and that theater managers are faced with a problem of trying to guess ahead of time how a verdict on any film might come out.

It is purely an academic supposition to suggest that the sanctions of subsequent punishment do not affect freedom of expression to the same degree as intelligent pre-censorship, when comparatively analyzed and applied to motion pictures. As indicated by Mr. Justice Frankfurter, "motion picture censorship is a less stringent form of restriction on freedom of speech, than subsequent punishment."

The State of Pennsylvania is now in the thrice of a pre-censorship Court battle, which will eventually reach the Supreme Court. On August 1st, 1960, a three Judge Court of Dauphin County, struck down that State's most recent censorship law, in a 100 page opinion. The new law, almost unanimously approved on September 17th, 1959 by the Legislature, was declared by the Court to be unconstitutional and inoperable, because it is vague, indefinite, and imposed an undue burden on interstate commerce.

Highlights of the opinion include the following:

- "1. It is unconstitutional on its face, because it deprives plaintiffs and motion picture exhibitors throughout Pennsylvania of their guaranteed freedom of expression and communication.
2. It seriously inhibits freedom of expression.
3. It establishes a prior restraint on all those pictures exhibited in Pennsylvania.
4. Its standards are so vague as to provide no rational basis to guide defendants and members of the board, in their determination.
5. It has no rational basis for distinguishing between what may be shown to persons above and below the age of 17.
6. The censorship of "obscenity" must be limited to that material which deals with sex, when, applying contemporary community standards and taken as a whole, it appeals to prurient interests. Such standards vary greatly from one area to another in a State, not only from rural to metropolitan areas, but even between large cities themselves. This fact is recognized by the Legislature, evidenced by local option laws as to baseball, movies, betting and the like. Disapproval of a motion picture by a State-wide Board of Censors, bans it throughout the whole State, regardless of the community, and the different standards which might prevail.
7. The Board hears no evidence of "community standards" and would not be qualified to evaluate it, if it did. Their interpretation ought not to depend solely on the necessarily limited, hit-or-miss subjective view of what they believed such standards to be.
8. The Court believes it is impossible for any three persons constituting the State Board, to qualify as "average persons", familiar with the

contemporary community standards in every part of Pennsylvania, and even if the members were so all-wise, they could not use their wisdom to advantage, since they cannot disapprove a picture for one locality and not another.

9. The definition of "incite to crime" (similar to Maryland) has no technical or common law meaning, and the broad language would justify the Beard in disapproving of Robin Hood, Zorro, The Lone Ranger, Tom Sawyer and Huck Finn; all leading to absurd results.
10. The positive danger of the Pennsylvania Act is that it will deprive the young of an important part of their education in learning to resist and combat evil. It is characteristic of Censors to believe that good must always be shown to triumph, and to assume that evil, unless shown to be punished, is thereby portrayed as acceptable conduct. This is a well known theory of poetic justice.
11. It is completely lacking in all the traditional and fundamental procedural safeguards and it singles out motion pictures for control from all other media of communication, at the same time exempting certain classes of films and films shown under certain auspices, without any rational basis for such classification."

In connection with the last, Judge Schn, noting that non-commercial exhibitions for fraternal, business, charitable and professional organizations would also be exempt, questioned whether obscene films might not be sold for "stags" and "smokers" by groups posing as fraternal or charitable organizations.

We caution that the difference between the legally acceptable and the morally objectionable, must be more closely resolved by the *people themselves*. It is recalled that Mr. Justice Bok of the Pennsylvania Supreme Court, in discussing obscenity, said:

"If the young ladies are appalled by what they read, they can close the book at the bottom of page one; and if they read further, they will learn what is in the world and in its people, *and no parents who have been discerning with their children need fear the outcome.*"

Thus, in a few years, the control over motion pictures by pre-censorship, whether by City or State, has been brought to its most crucial stage. In years past, almost all states exercised some such control as a prerequisite to licensing. Today, four states and a number of cities continue to maintain those requirements. The industry has, now marshalled its forces for a frontal attack on all censorship requirements, rather than on a case-by-case basis. Their present efforts are not as to the content and presentation of any particular picture, but rather as to the constitutionality of any law which requires official approval before presentation to the public.

The results will be known in the near future, and all people, with whatever groups they may be aligned and whatever their opinions may be, will, in our finest tradition, abide by the law of the land, as expressed by the Supreme Court of the United States.

Respectfully submitted,
C. Morton Goldstein, *Chairman*
Norman C. Mason, *Vice-Chairman*
Mary Avara, *Secretary*

August 1, 1960

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

For the Fiscal Year Ended June 30, 1960

RECEIPTS

FEES:

Original Reels—35MM (5,342,456 ft.)	\$17,481.00	
Original Reels—16MM (9,297 ft.)	48.00	
		\$17,529.00
Duplicate Reels—35MM (47,120,231 ft.)	\$50,480.00	
Duplicate Reels—16MM		
		\$50,480.00
Sale of Substitute Seals (1266)	1,266.00	
		\$69,275.00
ADD: Credits (C&P Tel. Co. & Sale State Car)		499.84
Deposited to Credit of State Treasurer		\$69,774.84

EXPENSES

SALARIES:

Board Members	\$ 9,231.22	
Other Employees	\$39,999.70	
		\$49,230.92

OTHER EXPENSES:

Communication	\$1,149.10	
Contractual Services, Office	247.82	
Printing	304.00	
Office Supplies	639.41	
Office Equipment, Additional	73.25	
Insurance and Bonds	42.50	
Contractual Services, Motion Picture	2,031.76	
Motion Picture Machine Supplies	146.68	
Motion Picture Equipment, Additional	138.60	
Technical and Special Fees	5,750.00	
Travel	606.70	
Motor Vehicle Operation & Maintenance	359.36	
Motor Vehicle Equipment	1,710.11	
		\$13,199.29
		\$62,430.21

BUDGET ACCOUNT (Per Comptroller)

Appropriations, 1960	\$62,833.00	
Add: Credits (C&P Tel. Co. & Sale State Car)	499.84	
		\$63,332.84
Less Reversion to Reserve Fund	902.63	\$62,430.21
General Fund Disbursement		\$62,430.21

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS
TABLE SHOWING TOTAL ANNUAL RECEIPTS AND DISBURSE-
MENTS TOGETHER WITH THE AMOUNTS REVERTING
TO THE STATE TREASURY

October 1, 1920-June 30, 1960

	Receipts	Disbursements	Amount Reverting to State Treasury
10-1-20 to 9-30-21	\$26,488.33	\$19,025.26	\$7,463.07
10-1-21 to 9-30-22	26,866.90	19,842.12	7,024.78
10-1-22 to 9-30-23	27,059.51	19,892.93	7,166.58
10-1-23 to 9-30-24	26,338.50	20,730.44	5,608.06
10-1-24 to 9-30-25	29,249.50	22,207.24	7,042.26
10-1-25 to 9-30-26	30,207.92	22,662.82	7,545.10
10-1-26 to 9-30-27	32,498.55	24,883.80	7,614.75
10-1-27 to 9-30-28	38,165.57	27,734.69	10,430.88
10-1-28 to 9-30-29	44,486.27	32,937.76	11,548.51
10-1-29 to 9-30-30	38,954.98	31,718.26	7,236.72
10-1-30 to 9-30-31	35,245.85	31,816.79	3,429.06
10-1-31 to 9-30-32	35,637.44	32,158.81	3,478.63
10-1-32 to 9-30-33	35,152.34	34,207.93	944.41
10-1-33 to 9-30-34	36,563.00	37,174.49	9,388.51
10-1-34 to 9-30-35	39,463.00	27,577.76	11,885.24
10-1-35 to 9-30-36	44,073.00	28,927.98	15,145.02
10-1-36 to 9-30-37	49,293.00	28,855.10	20,437.90
10-1-37 to 9-30-38	48,659.00	30,197.34	18,461.66
10-1-38 to 9-30-39	50,180.00	30,302.92	19,877.08
10-1-39 to 9-30-40	53,180.00	29,598.72	23,581.28
10-1-40 to 9-30-41	55,877.00	30,347.18	25,529.82
10-1-41 to 9-30-42	55,561.00	31,135.92	24,425.08
10-1-42 to 6-30-43	39,828.00	22,578.29	17,249.71
7-1-43 to 6-30-44	55,585.00	35,112.59	20,472.41
7-1-44 to 6-30-45	55,054.00	35,090.08	19,963.92
7-1-45 to 6-30-46	59,396.00	35,802.90	23,593.10
7-1-46 to 6-30-47	65,961.00	42,150.48	23,810.52
7-1-47 to 6-30-48	72,832.00	44,814.74	28,017.26
7-1-48 to 6-30-49	78,606.00	47,468.24	31,137.76
7-1-49 to 6-30-50	82,328.00	48,565.63	33,762.37
7-1-50 to 6-30-51	79,885.00	47,689.30	32,195.70
7-1-51 to 6-30-52	82,343.00	55,671.29	26,671.71
7-1-52 to 6-30-53	75,530.00	55,853.09	19,676.91
7-1-53 to 6-30-54	76,865.00	66,106.50	10,758.50
7-1-54 to 6-30-55	73,884.00	66,917.53	6,966.47
7-1-55 to 6-30-56	73,055.00	63,977.38	9,077.62
7-1-56 to 6-30-57	71,387.00	61,974.56	9,412.44
7-1-57 to 6-30-58	68,219.00	64,294.45	3,924.55
7-1-58 to 6-30-59	63,130.00	65,383.49	
7-1-59 to 6-30-60	69,774.84	62,430.21	7,344.63
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	\$2,102,863.50	\$1,525,817.01	\$579,299.98

* The above amount reverting to State Treasury does not include \$19,487.38 for period 6-1-16 to 9-30-20.

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

CLASSIFICATION OF FILMS

July 1, 1959—June 30, 1960

1959	Features	Short Subjects	Cartoons	Serials	Adver- tising	Misc.
July.....	589	32	61	6	12	0
August.....	581	28	68	13	2	0
September.....	467	30	91	8	3	0
October.....	566	44	252	8	5	0
November.....	414	32	53	0	5	0
December.....	443	36	56	10	1	0
1960						
January.....	487	35	73	8	3	0
February.....	434	39	79	8	6	0
March.....	459	41	74	4	6	0
April.....	404	50	88	0	3	0
May.....	398	46	79	0	3	0
June.....	579	67	69	10	3	0
TOTALS.....	5,821	480	1,043	75	52	0

SUMMARY OF REPORT

Films, Original.....	1,025			
Films, Duplicate.....	6,446			
Reels, Original.....		6,637		
Reels, Duplicate.....		58,810		
Number of feet, Original.....			5,351,753	
Number of feet, Duplicate.....			47,120,231	
Films Approved, Original.....				1,008
Films Approved, Duplicate.....				6,420
Films Modified in Part, Original.....				17
Films Modified in Part, Duplicate.....				26
Films Denied.....				0
TOTALS.....	7,471	65,447	52,471,984	7,471

MARYLAND STATE BOARD OF MOTION PICTURE CENSORS

REPORT OF FILMS EXAMINED

July 1, 1959—June 30, 1960

1959	Films Original	Films Duplicate	Reels Original	Reels Duplicate	No. of Ft. Original	No. of Ft. Duplicate	Films Approved	Films Modified			Films Denied
								In Part	Original	Duplicate	
July.....	76	623	394	5,495	318,630	4,179,337	700	1	0	0	0
August.....	90	599	577	5,241	471,079	4,222,903	692	2	1	0	0
September.....	76	516	606	5,285	491,714	4,359,425	599	2	5	0	0
October.....	103	769	552	5,694	439,645	4,557,496	875	3	0	0	0
November.....	67	434	495	3,950	392,957	3,213,685	504	3	0	0	0
December.....	73	469	495	4,792	394,733	3,817,896	546	3	1	0	0
1960											
January.....	77	514	491	4,700	398,137	3,785,152	606	0	15	0	0
February.....	73	493	463	4,789	384,082	3,895,345	566	0	0	0	0
March.....	93	490	687	4,456	554,804	3,548,097	584	1	0	0	0
April.....	73	472	411	3,973	328,264	3,189,743	545	0	0	0	0
May.....	83	443	529	4,350	428,693	3,518,458	526	0	0	0	0
June.....	124	598	937	6,085	749,025	4,832,694	728	2	4	0	0
TOTALS.....	1,008	6,420	6,637	58,810	5,351,753	47,120,231	7,471	17	26	0	0